

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 EDWARD REYNIR SULLIVAN,

12 Petitioner,

13 v.

14 MATTHEW MARTELL, Warden

15 Respondent.

Civil No. 08-0406 BEN (AJB)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE AND WITH
LEAVE TO AMEND**

16 On January 14, 2008, Petitioner, a state prisoner proceeding pro se, filed a Petition for
17 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 in the United States District Court for the
18 Central District of California. On March 3, 2008, the case was transferred to this Court.

19 It appears from the docket forwarded by the Central District that Petitioner has failed to
20 pay the \$5.00 filing fee and has failed to move to proceed in forma pauperis. Because this Court
21 cannot proceed until Petitioner has either paid the \$5.00 filing fee or qualified to proceed in
22 forma pauperis, the Court **DISMISSES** the case without prejudice and with leave to amend. *See*
23 Rule 3(a), 28 U.S.C. foll. § 2254. If Petitioner wishes to proceed with this case, he must submit,
24 **no later than May 12, 2008**, a copy of this Order with the \$5.00 fee or with adequate proof of

25 ///

26 ///

27 ///

28 ///

1 his inability to pay the fee. The Clerk of Court shall send a blank Southern District of California
2 In Forma Pauperis Application to Petitioner along with a copy of this Order.

3 **IT IS SO ORDERED.**

4
5 **DATED: March 5, 2008**

6
7 
8 **Hon. Roger T. Benitez**
9 **United States District Judge**
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28